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RUEHNT/AMEMBASSY TASHKENT PRIORITY 2143
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S E C R E T SECTION 01 OF 02 ISLAMABAD 022028

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TAGS: [KWMN](#) [PGOV](#) [PHUM](#) [PK](#)

SUBJECT: NATIONAL ASSEMBLY PASSES WOMEN'S PROTECTION BILL

REF: A. ISLAMABAD 18917

[1](#)B. ISLAMABAD 16956 AND PREVIOUS

Classified By: Ambassador Ryan C. Crocker, Reasons 1.4 (b) and (d)

[1](#)1. (U) This cable contains an action request: please see para. 7.

[1](#)2. (C) Summary: After weeks of acrimonious debate, Pakistan's National Assembly passed the controversial Women's Protection Bill on November 15, amending provisions in the Shari'a-based Hudood Ordinance on rape and sex outside marriage. The bill passed with the support of the Pakistan Muslim League-led coalition government backed by parliamentarians from the opposition Pakistan People's Party. Despite the exhortations of President Musharraf and Prime Minister Shaukat Aziz for all PML members to support the bill, 44 members fail to show up for the floor vote. The bill is a significant step toward improving the legal rights of women in Pakistan, a development that the U.S. should publicly welcome. End summary.

(U) On November 15, Pakistan's National Assembly (NA) passed the Women's Protection Bill (WPB), amending the oppressive rape and adultery provisions of the Hudood Ordinance. The WPB received votes from 188 of the 342 NA members. The bill will now move to the Senate, which is expected to approve the legislation. The WPB includes two separate elements -- the text that had emerged from the all-party parliamentary Select Committee in September (Ref A), plus an amendment to the Pakistan Penal Code making "fornication" or "lewdness" a criminal offense, albeit one couched behind so many legal firewalls that it would be practically impossible to obtain a conviction. The Pakistan Muslim League-led (PML) government is congratulating itself on its success in moving the WPB forward, with President Musharraf saying that this is only the first of a series of measures to enhance legal protections for Pakistani women. In the meantime, parliamentarians from the Muttahid Majlis-e-Amal (MMA) coalition of religious parties, who have condemned the WPB as un-Islamic, walked out of the Assembly

when the vote was called; they must now decide whether to go through with their threat to resign their assembly seats in protest.

13. (U) The object of the WPB was to "bring the laws relating to zina (sex outside of marriage) and qazf (perjury), in particular, in conformity with the stated objectives of the Islamic Republic of Pakistan and...in particular to provide relief and protection to women against misuse and abuse of law." The most important feature of the WPB is that it breaks the link between the offenses of rape and zina, so that a woman who brings a charge of rape is no longer in jeopardy of being prosecuted for zina. The bill also includes a series of evidentiary and procedural reforms, such as transferring jurisdiction for rape cases from religious to civil courts. (Note: Key provisions of the WPB are described in detail in Ref A and B. End note.)

14. (C) The provision inserting the offense of "fornication" or "lewdness" into the Pakistani Penal Code is a compromise measure, intended to mollify PML parliamentarians reluctant to support the bill and to head off mass resignation by the 66 MMA members sitting in the Assembly. The bill's primary drafter, Attorney General Mahdood Ali Khan, reluctantly prepared the text for this provision, recognizing that the government might need a fall-back position. He carefully crafted a series of firewalls in the text to ensure that rape remains severed from zina, such as language that would prevent a rape complainant from being charged with any other crime in connection with the complaint (i.e., a woman's rape complaint could not later be used as a self-incriminatory confession leading to a zina or lewdness case) and that would impose

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automatic perjury penalties on witnesses who testify in zina cases that the courts determine are unfounded. The end result is a formidable legal bulwark that makes a conviction for the offense extraordinarily difficult.

15. (C) This was not an easy bill for the government to pass. It came under heavy fire from both human rights activists, who argued for a flat repeal of the Zia-era Hudood Ordinance, as well as vociferous criticism from the religious right, which considers the WPB anathema. MMA threats to resign, possibly forcing national elections in early 2007, thoroughly spooked PML President Chaudhry Shujaat Hussain and his supporters. Many PML members -- looking toward national elections within the year -- simply did not have the stomach to take on the Hudood Ordinance, which has long been the "third rail" of Pakistani politics. In the end, 44 members (almost 30 percent of PML parliamentarians) failed to show for the November 15 floor vote. Had it not been for close cooperation with the Pakistan People's Party (PPP) parliamentary leadership and assurances of support from exiled PPP leader Benazir Bhutto, the government would not have been able to pass this bill.

16. (C) If nothing else, the WPB gave pundits a political drama they will not soon forget. The November 15 floor debate was a frenzied affair, with PML President Shujaat declaring he would resign his seat if anyone could prove that the WPB contravened the Koran. (Note: Shujaat's declarations did little to persuade PPP leaders that he had abandoned inclination to include MMA-sponsored amendments in the WPB: the PPP spokesperson told one diplomat that Shujaat was dealing and flirting with the religious parties up to the last minute. End note.) The WPB's prospects were so uncertain that only a few hours before the vote that, during a midday meeting, the National Security Advisor asked the Ambassador to call Benazir Bhutto to ensure that she had instructed the PPP delegation to vote with the government. Only minutes later, Aziz received a call from the PPP floor manager confirming that she had received Bhutto's blessing to vote for the WPB. When the vote was called, the MMA had walked out; the Pakistan Muslim League - Nawaz (PML-N)

abstained; and the PPP and remaining PML members carried the day.

¶7. (C) Action request: As noted in post's earlier reporting the WPB is significant legislation that will dramatically enhance the legal protections available to Pakistani women -- a step that the United States should publicly endorse as a positive step forward. Although the WPB is far from perfect, it is the first successful effort to blunt the most egregious provisions of the Hudood Ordinance; its passage, pending Senate approval, will demonstrate that reform of other laws and cultural practices that oppress women is possible. Post urges the Department to issue a press statement recognizing this action by elected parliament representatives to improve the lives of Pakistani women.

CROCKER